

## REMARKS

Reconsideration of the above-identified patent application in view of the amendments above and the remarks following is respectfully requested.

Claims 3-18 and 26-36 are in this case. Claims 3-18 and 26-36 have been rejected under § 103(a). Independent claims 16, 17, 26 and 34-36 and dependent claim 9 have been amended. New claims 37-40 have been added.

The claims before the Examiner are directed toward a portable device, for data storage and transfer, that optionally functions in a stand-alone mode while exchanging data with another, similar device. The device includes a non-volatile memory for storing the data and an interface that the device uses to exchange data with other, similar devices. In one embodiment of the present invention, the operations of both the device and the similar device with which the device exchanges data are restricted to data storage and transfer. In another embodiment of the present invention, both the device and the similar device with which the device exchanges data lack operating systems. In yet another embodiment of the present invention, the device also includes a memory for storing a software application for controlling the data exchange, and neither the device nor the similar device with which the device exchanges data is capable of receiving an additional software application.

### § 103(a) Rejections – Liepe ‘278

The Examiner has rejected claims 3-18 and 26-36 under § 103(a) as being unpatentable over Liepe, US Patent No. 6,405,278 (henceforth, “Liepe ‘278”). The Examiner’s rejection is respectfully traversed.

Liepe '278 teaches a flash card 202 that stores data in a flash memory 204 and that communicates, using an RF transmitter 206 and an RF receiver 208, with other similar flash cards.

The crucial difference between flash card 202 of Liepe '278 and the device of the present invention is that the device of the present invention is capable of operating in a stand-alone mode while exchanging data, unlike flash card 202 of Liepe '278 that must be plugged into a host in order to operate.

It is clear from Liepe '278 that flash card 202 must be plugged into a host in order to operate. Throughout Liepe '278, flash card 202 is described as being plugged into a host when operating:

Column 2 lines 51-54:

In a preferred embodiment, a flash card is provided that comprises a radio frequency ("RF") interface. In a preferred embodiment, such RF interface is incorporated within a flash card that can be connected to a host device... (emphasis added)

Column 6 lines 33-36:

A user can obtain a FLERF card 202 that is compatible with the video camera 100, and insert the FLERF card 202 in the video camera 100, rather than using a traditional flash card. (emphasis added)

Column 6 lines 51-52:

The additional storage may be easily added to a host device 100 by inserting a FLERF card 202. (emphasis added)

Column 7 lines 12-14:

The photographer may carry a camera 100 having a FLERF card 202 with him along the hiking trail. (emphasis added)

Column 7 lines 20-23:

As still a further example, a photographer employed by a newspaper company in Dallas, Tex., may be on location in Dallas taking photographs with camera 100 having FLERF card 202. (emphasis added)

Column 8 lines 35-36:

Suppose that a user is a photographer and FLERF card 202 is utilized in a camera 100. (emphasis added)

Column 8 lines 57-60:

As a further example, a photographer employed by a newspaper company in Dallas, Tex., may be on location in Dallas taking photographs with camera 100 having FLERF card 202. (emphasis added)

Column 9 lines 28-30:

Thereafter, the user can transmit the data for a desired game to FLERF card 202 contained in host device 100 via wireless communication (e.g., RF). (emphasis added)

Column 10 lines 57-59:

In the embodiment illustrated in FIG. 5, a transfer of data can be initiated by equipment remote from the host device 100 containing FLERF card 202. (emphasis added)

Column 11 lines 21-23:

A user can insert the FLERF card 202 in a PC or other device and specify a telephone number for the FLERF card 202 to dial when micro-switch 212 is activated. (emphasis added)

Column 12 lines 34-37:

It should be understood that the present invention may be utilized with any type of host device 100 that is capable of storing data to flash memory. (emphasis added)

Column 12 lines 46-54:

Rather than sending a person or some other device to retrieve data from such a sensing device, FLERF card 202 may be utilized in the device to transmit data to a safe remote location via wireless communication (e.g., RF). Accordingly, in a preferred embodiment, a FLERF card 202 can be utilized within any type of device capable of storing data to flash memory to provide such device with the ability to transmit data via wireless communication. (emphasis added)

Furthermore, as is well-known in the art, flash cards generally, including flash card 202, must receive power from their hosts in order to operate. This is why none

of the Figures of Liepe 278' shows a power supply inside FLERF card 202. Attached please find page 13 of The MultiMediaCard System Specification Version 3.2 (MMCA Technical Committee, January 2002). This page includes a list of the contacts of a typical flash card that was in common use on the priority date of the above-identified patent application. Please note the presence of pins 3 (supply voltage ground), 4 (supply voltage) and 6 (supply voltage ground). Like all flash cards that were known on the priority date of the above-identified patent application, the MultiMediaCard requires power from a host, via the indicated pins, in order to operate.

Thus, one ordinarily skilled in the art would have understood flash card 202, like all flash cards that were known on the priority date of the above-identified patent application, to require direct connection to a host in order to operate. The "stand-alone" option of the present invention therefore is not obvious from Liepe '278.

While continuing to traverse the Examiner's rejections, Applicant has, in order to expedite the prosecution, chosen to amend independent claims 16, 17, 26 and 34-36 in order to clarify and emphasize the crucial distinctions between the device of the present invention and the device of Liepe '278. Specifically, claims 16, 17 and 26 have been amended to clarify that the portable device of the present invention is operative to function as a stand alone device while exchanging data with another, similar device, and claims 34-36 have been amended to clarify that the portable devices of the system of the present invention are operative to function as stand alone devices while exchanging data. In addition, new claims 37-39 have been added, to add to claims 16, 17 and 26, respectively, the limitation that the other portable device also is operative to function as a stand alone device while exchanging data. Support

for these amendments and these new claims is found in the specification on page 9 line 22 through page 10 line 2:

Device 12 can optionally and preferably function as a stand alone device while exchanging data...with another similar device 32 as shown in Figure 2. (emphasis added)

Amended independent claims 16, 17, 26 and 34-36 now feature language which makes it absolutely clear that the devices of the present invention optionally function in a stand-alone mode while exchanging data. . Applicant believes that the amendment of the claims completely overcomes the Examiner's rejections on § 103(a) grounds.

With independent claims 16, 17 and 26 allowable in their present form, it follows that claims 3-15, 18 and 27-33, that depend therefrom, also are allowable.

Although claim 9 is allowable merely by virtue of depending from claim 16, Applicant takes the liberty of pointing out an additional reason why claim 9 is allowable. Claim 9 introduces the limitation that data stored on the non-volatile memory are marked according to type and are selected for transfer according to type. This limitation is neither taught nor hinted nor suggested by Liepe '278. In rejecting claim 9, the Examiner asserted that

*...Liepe teaches formatting the captured data according to a specific type (210) on said memory and is marked according to type, such that said at least one instruction selects data for transfer according to said type.*

Actually, reference numeral 210 of Liepe '278 refers to format circuitry. The only reference to format circuitry 210 in Liepe '278 is in column 6 lines 25-28:

In a preferred embodiment, FLERF card 202 also comprises format circuitry 210 that is capable of interpreting and formatting the data contained on FLERF card 202 for RF transmission.

As best understood, format circuitry 210 formats the data independently of the type of the data. There is neither a hint nor a suggestion in the description of format circuitry

210 of either marking the data according to type or transmitting the data according to type.

Therefore, new claim 40 has been added. New claim 40 is claim 9 rewritten in independent form without the “stand alone” limitation.

In drafting claim 40, Applicant noticed that the “at least one instruction” feature recited in claim 9 lacks antecedent basis. Therefore, claim 40 also includes the limitation, originally recited in claim 1 as filed, that data transfer with the non-volatile memory is controlled according to at least one instruction. Claim 9 itself also has been amended to recite this limitation. Support for this amendment is found in claim 1 as filed.

In view of the above amendments and remarks it is respectfully submitted that independent claims 16, 17, 26, 34-36 and 40, and hence dependent claims 3-15, 18, 27-33 and 37-39 are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

  
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Mark M. Friedman  
Attorney for Applicant  
Registration No. 33,883

Date: June 23, 2004